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RUEHMD/AMEMBASSY MADRID PRIORITY 0676
RUEHNV/AMEMBASSY MONROVIA PRIORITY 0036
RUEHMO/AMEMBASSY MOSCOW PRIORITY 2050
RUEHMS/AMEMBASSY MUSCAT PRIORITY 0003
RUEHNR/AMEMBASSY NAIROBI PRIORITY 0144
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 0564
RUEHNC/AMEMBASSY NICOSIA PRIORITY 0240
RUEHNY/AMEMBASSY OSLO PRIORITY 0428
RUEHOT/AMEMBASSY OTTAWA PRIORITY 1157
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SUBJECT: GERMAN VIEWS ON THEMES FOR THE MAY 29 MEETING OF
THE PIRACY CONTACT GROUP

Classified By: POLITICAL MINISTER COUNSELOR JEFF RATHKE. REASONS: 1.4 (B) AND (D).

¶1. (C) SUMMARY. Germany agrees that more forces are needed for counterpiracy operations off the coast of Somalia, but feels it is already doing its fair share; others with the requisite capability who are not yet contributing should answer the call. Germany welcomes the planned NATO counterpiracy mission, but plans to keep all of its assets under the EU Atalanta operation for the time being -- at least until after the September Bundestag election. Germany will only bring those pirate suspects here for prosecution who have directly and adversely affected German interests (i.e., caused the death or injury of a German citizen and/or damage to German property). Germany points out that the impact of requiring German-flagged vessels to undertake self-protective measures would be very limited since the number of such vessels is relatively small. The use of armed guards on board ships for protection is controversial in Germany and elsewhere in Europe, especially when this task is performed by private security firms. Germany questions the usefulness of a working group on tracking and freezing pirate assets, given that ransoms are paid in cash, and most Somalian pirates presumably have limited opportunities to use

bank accounts and other traceable financial instruments. END SUMMARY.

12. (SBU) Post delivered reftel points to MFA UNSC Action Officer Dirk Stockhausen and ESDP Action Officer Stefan Roessel on May 5. We followed up with them on May 13 to review reftel's suggested items for discussion at the May 29 meeting of the Contact Group on Piracy off the Coast of Somalia (CGPCS).

ADDITIONAL FORCES

13. (C) With regard to assigning additional counterpiracy forces to the region, they agreed that more were needed. However, before current contributors like Germany were pressed to provide more assets, they thought the focus should be on countries that have the requisite capability, but are not yet pulling their weight. They noted that only four of the EU's 27 member states are currently participating in the Atalanta mission, but acknowledged that many are land-locked nations without blue sea navies. They indicated that the EU would do a report at the six-month mark of the Atalanta mission and that one of the issues addressed would be force generation.

NATO MISSION

14. (C) Both Stockhausen and Roessel welcomed the planned NATO counterpiracy mission and thought it would give value added

by providing a framework for non-EU Allies to contribute to the counterpiracy effort. They indicated, however, that the German government was unlikely to risk any political capital in seeking a separate parliamentary mandate for the NATO mission before German federal elections in September. The question of joining the NATO mission would probably not arise until December, when the mandate for the EU Atalanta mission comes up for renewal. In any case, they saw little point in dividing German counterpiracy assets between the EU and NATO, believing that for practical reasons, it made sense to keep everything under Atalanta for the time being.

PROSECUTING PIRATES

15. (C) On the issue of adopting national policies that will support detention and prosecution of suspected pirates, both Stockhausen and Roessel thought the EU hand-over agreement with Kenya provided a good framework for handling pirate suspects who might otherwise have to be released. However, they realize that Kenya is not in a position to prosecute all of the pirates captured off the Somali coast, which is why Germany favors finding other third states in the region to help shoulder this burden. But when asked what countries might be good candidates for this, they did not have any concrete suggestions. They noted that Yemen had been mentioned early on, but was probably not acceptable, given its spotty human rights record and the existence of the death penalty there.

16. (C) Stockhausen and Roessel emphasized that judicial authorities in Germany would be reluctant to bring pirate suspects to Germany for prosecution except in cases where German interests were directly and adversely affected, i.e., the death or injury of a German citizen or damage to German property. That is why even in the recent case where pirates attacked a Germany Navy supply ship (apparently mistaking it for a commercial vessel), German authorities in the end declined to prosecute. The attack consisted of just three shots from a handgun at long distance, none of which apparently hit the ship or its crew. The Germans believe that they need to be judicious in deciding which pirates to bring to Germany for prosecution since the suspects are likely to declare asylum as soon as they arrive and probably will not be able to be sent back to their home countries. They worry about creating perverse incentives to attack German vessels.

17. (SBU) In the longer run, given the problems that

individual countries have prosecuting pirate suspects, many senior German officials have already spoken out in favor of establishing an international tribunal to handle these cases.

The MFA has drafted a non-paper on the issue, noting two possible ways of setting up such a court: 1) attaching it to

an already existing national court in the region, as was done in Cambodia (the so-called "Khmer Rouge Tribunal") or 2) establishing a stand-alone court in the region where there is already administrative and clerical expertise, such as in Arusha, Tanzania, where the International Criminal Tribunal for Rwanda is located. The Germans believe these options should be pursued in close cooperation with the African Union and the UN, and that whatever option is chosen will probably have to be codified in a UN Security Council resolution. They also acknowledge that the countries of the region could not be expected to bear the costs of the new court alone. (Note: A copy of the German non-paper has been e-mailed to EUR/CE and PM/PPA. End Note.)

SELF-PROTECTION MEASURES

18. (C) Noting reftel's call for improving ship self-protection, we shared with Stockhausen and Roessel the news that the U.S. Coast Guard had just recently issued a revised maritime directive that requires U.S.-flagged vessels to establish an anti-piracy plan to prevent attacks. We asked if Germany had considered taking similar measures with regard to German-flagged ships. Stockhausen and Roessel said, in fact, this was an issue of intense internal debate on self-protection measures, noting that there were several different aspects to the issue.

19. (C) First of all, they pointed out that the effect of such a directive for German-flagged ships would be limited since only a relatively small number of German-owned commercial vessels fly the German flag. They typically fly flags of convenience instead, which allow them to get around strict German minimum wage requirements and other rules and regulations. Stockhausen and Roessel thought that similarly few U.S.-owned commercial ships flew the U.S. flag.

110. (C) While there is little controversy about having unarmed guards standing watch on a ship, Stockhausen and Roessel said the use of armed guards is quite controversial in Germany and the rest of Europe. In fact, the German Shipowners Association has already come out publicly against posting armed guards on ships, arguing that this could do more harm than good and lead to escalation-of-force incidents. Stockhausen and Roessel noted that once you have decided in favor of armed guards, then you have to determine whether they should be private contractors or government security forces (police or military). Stockhausen and Roessel thought that after the bad experience with private security contractors in Iraq, there was relatively little appetite in Europe for basing such individuals on vessels. However, they noted that the EU framework decision for the Atalanta mission explicitly foresees the deployment of government security forces on commercial and World Food

Program (WFP) vessels (called "vessel protection detachments" or VPDs).

TRACKING AND FREEZING PIRATE ASSETS

111. (C) With regard to our proposal to establish a fifth working group to explore the feasibility of tracking and freezing pirate assets, Stockhausen and Roessel wondered how we thought this would work in practice. They asked for our understanding of the financial stream of pirates, given that ransoms are paid in cash and most Somalian pirates presumably have limited opportunities to use bank accounts and other financial instruments.

CGPCS MEMBERSHIP

112. (C) Regarding participation in the CGPCS, Stockhausen noted that Greece is now threatening to quit the group unless

Cyprus is admitted, even though Cyprus has not formally applied to be a member. Both Stockhausen and Roessel expressed hope that a solution would be found soon to this Turkey-Cyprus issue, which is also blocking the accession of several applicants to the CGPCS.

GERMANY OFFERS TO HOST PRE-MEETING

¶13. (SBU) Stockhausen noted that Germany would offer to hold a Quad pre-meeting at its mission in New York on May 28, to help prepare for the May 29 CGPCS.
Koenig